

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT SECURITY
BUREAU OF UNEMPLOYMENT INSURANCE
APPEALS TRIBUNAL AND BOARD OF REVIEW**

**CHAPTER 0560-3-3
APPEALS TO THE BOARD OF REVIEW**

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0560-3-3-.01 PRESENTATION OF AN APPEAL TO THE BOARD OF REVIEW.

- (1) The Administrator of the Division of Employment Security of the Department of Labor and Workforce Development, or such Administrator's designee desiring to appeal to the Board of Review, either from a decision of the Appeals Tribunal or from the deputy, shall file such Administrator's request for such appeal with the Department, and addressed to the Commissioner, giving the Administrator's reasons therefor.
 - (a) If the Commissioner desires to have the case reviewed by the Board of Review, the Commissioner shall notify the Board of Review, indicating the Commissioner's request for appeal.
- (2) The Board of Review may on its own motion:
 - (a) affirm, modify, or set aside any decision of an Appeals Referee on the basis of the evidence previously submitted in such case, or
 - (b) direct the taking of additional evidence, or
 - (c) permit any of the parties to such decision to initiate further appeals before it.
- (3) The Board of Review shall permit such further appeals upon written request therefor by any of the parties interested in a decision of an Appeals Referee. The Board of Review shall also admit and give consideration to any briefs, memoranda of law or other written argument submitted therewith.
- (4) The Board of Review shall acknowledge by mail its receipt of any such written request for appeal by a party interested in a decision of an Appeals Referee.
 - (a) Within seven (7) days of the mailing of the Board of Review's acknowledgment, the party seeking a hearing before the Board shall file a written statement. Such statement must give any new or additional evidence that is not on the record before the Appeals Referee.
- (5) If the Board of Review is scheduling a hearing, the Board of Review shall mail a written notice of the hearing ten (10) days before the date of the hearing.
 - (a) The Board shall mail the notice to the claimant and to all other parties interested in the decision of the Appeals Tribunal which is being appealed.
 - (b) The Board of Review's written notice of hearing shall specify:

(Rule 0560-3-3-.01, continued)

1. the time, place, and nature of the hearing,
 2. the right of the parties to be represented by counsel,
 3. the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the Tennessee Employment Security Law involved, and
 4. a short and plain statement of the matters asserted.
- (c) 1. The Board of Review will mail the notice of the time and place of hearing to a designated representative when ten or more employees have become separated from their employment simultaneously in one establishment and:
- (i) have appealed to the Board of Review, or
 - (ii) their appeals have been brought forward by the Board of Review under the provisions of T.C.A. Section 50-7-304.
2. In such cases all of the claimants involved must have designated in writing to the Board of Review a particular person to represent them in the prosecution of their claims before the Board of Review.
 3. Such notice of hearing shall be deemed sufficient notice to every individual so represented.
 4. All other persons involved shall receive individual notices as provided in 0560-3-3-.01(2) of these rules.
- (6) (a) Any interested party (other than an employee of the Department of Labor and Workforce Development) desiring to appeal to the Board of Review from a decision of the Appeals Tribunal may file an appeal with the Department of Labor and Workforce Development on the prepared form furnished by the Department for such purpose, setting forth the information required thereby.
1. Such applications may be accompanied by references to or excerpts from the original decision of the Appeals Tribunal, or
- (b) Any letter or other written memorandum reasonably lodged with the Department of Labor and Workforce Development or mailed directly to the Board of Review by a party clearly indicating such party's desire for a hearing before the Board of Review, shall be deemed sufficient application for an appeal within the meaning of this section.
- (c) Notices of appeal shall be mailed by the Department of Labor and Workforce Development to all parties interested in the decision of the Appeals Tribunal, including the manager of the Labor and Workforce Development Office where the claim was originally filed. If the claimant files continued claims at a Labor and Workforce Development Office different from the office where the claimant filed the original claim, the notice of appeal will also be mailed to the manager of the office where the claimant files the continued claim.
- (7) Repealed.
- (8) Repealed.

(Rule 0560-3-3-.01, continued)

Authority: T.C.A. §§50-7-601, 50-7-602, and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed May 9, 1979; effective June 25, 1979. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-3-3-.02 HEARING OF APPEALS BY THE BOARD OF REVIEW ON ITS OWN MOTION.

- (1) Within fifteen (15) days following the decision by the Appeals Tribunal, and in the absence of any of the parties to the Appeals Tribunal decision filing a notice of appeal, as provided in 0560-3-3.01(1) and (4), the Board of Review, on its own motion, may order the cause brought forward under T.C.A. Section 50-7-304, and after due notice may order the parties to appear before it for a hearing on the claim or any issue involved therein.
- (2) Such hearings shall be held only after reasonable notice to the interested parties to the decision of the Appeals Tribunal, and shall be heard in the manner prescribed in 0560-3-4 for the hearing of appeals by the Board of Review.

Authority: T.C.A. §§50-7-601, 50-7-602, and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed May 9, 1979; effective June 25, 1979. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-3-3-.03 HEARING OF APPEALS BY THE BOARD OF REVIEW ON CASES ORDERED REMOVED TO IT FROM THE APPEALS TRIBUNAL.

- (1) The proceeding on any claim before the Appeals Tribunal which the Board of Review ordered to be removed to the Board of Review shall be presented, heard, and decided by the Board of Review in the manner prescribed in these Regulations, 0560-3-2 and 0560-3-4, for the hearing of claims before the Appeals Tribunal.

Authority: T.C.A. §§50-7-601, 50-7-602, and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed May 9, 1979; effective June 25, 1979. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.

0560-3-3-.04 DETERMINATION OF APPEALS.

- (1) The hearing conducted by the Board of Review shall be transcribed and/or mechanically recorded and such records of evidence placed in a permanent file together with the findings of fact and decision on same by the Board of Review.
- (2) In due time after the conclusion of a hearing on an appeal, or review of the record, the Board of Review shall mail its decision to all interested parties.
 - (a) The decision shall be in writing and shall include findings of fact, conclusions of law, and reasons for the ultimate decision, as well as a statement of a party's right to judicial review.
- (3) Within ten (10) days after the scheduled date of hearing, rehearing may be granted upon showing of good cause, including good cause for not appearing at the scheduled hearing, or may be ordered on the Board of Review's own motion for cause.
 - (a) All requests for postponement, continuance or rehearing shall be made in writing to:

(Rule 0560-3-3-.04, continued)

Board of Review
Tennessee Department of Labor and Workforce Development
Division of Employment Security
7th Floor
500 James Robertson Parkway
Nashville, Tennessee 37245-0700

- (b) Requests for postponements shall state the reasons therefor and may be mailed to the Board of Review or delivered to the Labor and Workforce Development Office where the claimant filed the claim for unemployment insurance benefits.
- (4) If a decision of the Board of Review is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision, setting forth the reasons why the minority fails to agree with the majority.
- (5) Repealed.

Authority: T.C.A. §§50-7-601, 50-7-602, and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed May 9, 1979; effective June 25, 1979. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001.